



## **STATEMENT OF THE CASE**

Messer appeals from the trial court's denial of his pro se motion to correct erroneous sentence. He presents a single issue for our review, namely, whether the trial court abused its discretion when it denied his motion requesting 113 days of earned good time credit.

We affirm.

## **FACTS AND PROCEDURAL HISTORY**

On May 15, 2002, Messer pleaded guilty to Dealing in a Schedule II Controlled Substance, as a Class B felony. The trial court sentenced Messer to six years pursuant to the plea agreement. In its sentencing order, the trial court stated that Messer "shall receive credit for time served of 113 days." Appellee's App. at 20. On August 14, 2006, Messer filed a motion to correct erroneous sentence alleging that he was entitled to another 113 days for good time credit. The trial court denied that motion. This appeal ensued.

## **DISCUSSION AND DECISION**

Messer contends that the trial court erred when it denied his motion to correct erroneous sentence. Specifically, he maintains that because the trial court awarded him 113 days of credit for time served, he is entitled to an additional 113 days of good time credit under Indiana Code Sections 35-50-6-3(a) and -4(a). The State responds that a motion to correct erroneous sentence is not a proper vehicle for asserting this claim. We agree with the State.

In Washington v. State, 805 N.E.2d 795 (Ind. 2004), it was unclear to our supreme court whether the defendant was challenging the abstract of judgment or the sentencing judgment regarding credit time. The court reiterated that under Robinson v. State, 805 N.E.2d 783, 794 (Ind. 2004), the abstract of judgment is not subject to attack by a motion to correct sentence. Washington, 805 N.E.2d at 796. In this case, it is likewise unclear whether Messer is challenging the abstract of judgment or the sentencing judgment. While he has included a copy of the abstract of judgment in his appendix on appeal, he has not included a copy of the sentencing judgment. If he is challenging the abstract of judgment, then the trial court properly denied his motion to correct sentence pursuant to Robinson.

Regardless, the State has provided us with a copy of the trial court's sentencing order in its appendix on appeal, in which the court stated that Messer would receive "credit for time served of 113 days." Appellee's App. at 20. There is no reversible error. As our supreme court held in Robinson, "[s]entencing judgments that report only days spent in pre-sentence confinement and fail to expressly designate credit time earned shall be understood by courts and by the Department of Correction automatically to award the number of credit time days equal to the number of pre-sentence confinement days." Robinson, 805 N.E.2d at 791-92. Applying this presumption, the sentencing judgment establishes that Messer is entitled to 113 days' credit for time spent in pre-trial confinement plus 113 days of good credit time. See Washington, 805 N.E.2d at 796; see also Pettiford v. State, 808 N.E.2d 134, 136 (Ind. Ct. App. 2004). The trial court did not err when it denied Messer's motion to correct erroneous sentence.

Affirmed.

MAY, J., and MATHIAS, J., concur.